

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DEVVEN BEAVER,)	Case No.: 3:06 CV 2895
)	
Petitioner)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
ERNIE MOORE, WARDEN,)	
)	
Respondent)	<u>ORDER</u>

On December 1, 2006, Petitioner Devven Beaver (hereinafter, "Beaver" or "Petitioner") filed a Petition for Writ of Habeas Corpus (ECF No. 1) pursuant to 28 U.S.C. § 2254, challenging the constitutionality of his state conviction and sentence. Beaver pleaded guilty to two counts of domestic violence, one count of violation of a protection order, one count of felonious assault, one count of rape, one count of intimidation, and one count of tampering with evidence. The court sentenced Beaver to a total of nine years. Respondent Ernie Moore (hereinafter, "Respondent") filed a Return of Writ on April 27, 2007. (ECF No. 7.) Petitioner filed a Traverse on May 14, 2007. (ECF No. 9.)

This court referred the case to Magistrate Judge Patricia A. Hemann for preparation of a Report and Recommendation. The Magistrate Judge submitted her Report and Recommendation on July 3, 2007, recommending that Beaver's Petition for Habeas Corpus under 28 U.S.C. § 2254

be dismissed as time-barred. (ECF No.10.) The Magistrate Judge found that Petitioner had filed his Petition for habeas relief more than a year and a half after the expiration of the deadline for filing a timely petition; and therefore, it should be dismissed. (R&R 5.)

As of the date of this Order, Petitioner has not filed objections to the Report and Recommendation. By failing to do so, he has waived the right to appeal the Magistrate Judge's recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).

The court finds, after careful review of the Magistrate Judge's Report and Recommendation and all other relevant documents, that the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's Report and Recommendation. (ECF No. 10.) Beaver's Petition for Writ of Habeas Corpus is hereby dismissed. The court further certifies that pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE

July 26, 2007